

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

GEORGE BOERSCHINGER,
on behalf of himself and
all others similarly situated,

Plaintiff,

Case No. 23-cv-01365

v.

SELLARS ABSORBENT MATERIALS, INC.

Defendant

**ORDER GRANTING PRELIMINARY APPROVAL OF COLLECTIVE AND
CLASS ACTION SETTLEMENT AND CERTIFICATION OF AN
FLSA COLLECTIVE AND RULE 23 CLASS**

Having reviewed the parties' Settlement Agreement & Release and Joint Motion for Preliminary Approval of Collective and Class Action Settlement, as well as the record, **IT IS HEREBY ORDERED THAT:**

1. The parties' Settlement Agreement (ECF No. 28) is **PRELIMINARILY APPROVED** as fair, reasonable, and an adequate resolution of a *bona fide* dispute under the Fair Labor Standards Act of 1938, as amended ("FLSA"), and Wisconsin's Wage Payment and Collections Laws ("WWPCL");
2. Certification is **GRANTED**, for settlement purposes only, of a collective action pursuant to the FLSA and defined as follows:

All individuals who worked as hourly-paid, non-exempt employees at Defendant's Wisconsin and Pennsylvania facilities and who received an attendance, referral, retention, sign-on, or record breaker bonus, shift premium, or leader pay and/or worked at least 160 hours between October 13, 2020, and October 13, 2023, as identified by

having “FLSA” appearing in the “Eligibility” column in **Exhibit B** to this Agreement and who file a Consent to Join Form within forty-five (45) days following service of the Notice Packet.

3. Certification is **GRANTED**, for settlement purposes only, of a class action pursuant to Fed. R. Civ. P. 23 and defined as follows:

All individuals who worked as hourly-paid, non-exempt employees at Defendant’s Wisconsin facilities and who received an attendance, referral, retention, sign-on, or record breaker bonus, shift premium, or leader pay and/or worked at least 160 hours between October 13, 2021, and October 13, 2023, as identified by having “WWPCL” appearing in the “Eligibility” column in **Exhibit B** to this Agreement and who do not affirmatively opt-out of the Settlement within forty-five (45) days following service of the Notice Packet.

4. Named Plaintiff George Boerschinger is hereby **APPOINTED** the representative of the FLSA Collective and WWPCL Class.

5. The law firm of Walcheske & Luzi, LLC is hereby **APPOINTED** as counsel for the certified FLSA Collective and WWPCL Class.

6. Rust Consulting, Inc. is hereby **APPOINTED** as the Settlement Administrator.

7. The parties’ Notice of Class and Collective Action Settlement as attached to the parties’ Settlement Agreement as Exhibit A (the “Notice Packet”) is **APPROVED** for distribution to putative members of the FLSA Collective and WWPCL Class.

8. The Notice Packet constitutes the best notice practicable under the circumstances, and constitutes valid, due, and sufficient notice to putative members in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution.

9. Putative members who wish to join the FLSA Collective, request exclusion from the Settlement Agreement, or object to the Settlement Agreement, must do so pursuant to the

steps set forth in the Parties' Notice Packet and within forty-five (45) days of mailing of the Notice Packet;

10. Any objection that does not comply with the instructions set forth in the Notice Packet and/or is untimely will not be heard;

11. Any WWPCL Class member who does not exclude him/herself shall be bound by the Court's Final Approval Order;

12. All members of the FLSA Collective shall be bound by the Court's Final Approval Order;

13. Any final approval motion, motion for approval of attorneys' fees and costs and for approval of service award, shall be filed no later than seven (7) days prior to the Fairness Hearing; and

14. A Fairness Hearing will be scheduled in approximately 120 days from the date of this Order for the purpose of granting final approval of the Settlement Agreement, generally, and determining Plaintiff's Service Award and Plaintiff's counsel's attorneys' fees and costs.

Dated at Milwaukee, Wisconsin this 30th day of September, 2024.


WILLIAM E. DUFFIN
U.S. Magistrate Judge